

## **NOTICE OF PUBLIC HEARING**

**PUBLIC HEARING NUMBER 2007-008**

**April 17, 2007**

NOTICE IS HEREBY GIVEN, the Tennessee Department of Environment and Conservation, Division of Water Pollution Control will hold a public hearing, pursuant to Rule 1200-4-7-.04(4), concerning the division's intent to issue its written consent allowing the modification of a Declaration of Restrictions that was previously granted to protect 20.6 acres of wetlands created as mitigation for impacts to waters of the state that were permitted under ARAP No. NRS 93-704.

§401 Water Quality Certification No. NRS 03-246 was issued to Waste Management, Inc. of Tennessee permitting activities that will impact 1.25 acres of jurisdictional wetlands (part of the 20.6 acres of wetlands created as mitigation under ARAP No. NRS 93-704) and result in the relocation of 2,242 linear feet of an unnamed tributary to the Cumberland River.

The proposed compensatory mitigation for the impacts to the 1.25 acres of jurisdictional wetlands is the creation of 6.25 acres of wetlands onsite. The proposed relocation of the stream results in a net gain of 41 linear feet of stream.

The Public Hearing will be held:

**Thursday, May 24, 2007**

**7:00 P.M.**

**Cafeteria**

**Cumberland Elementary School**

**4247 Cato Road**

**Nashville, TN 38115**

**(615) 291-6370**

Public comments will be received concerning the division's intent to issue its written consent allowing the proposed modification of the referenced Declaration of Restrictions and the probable impacts of the activities that are permitted by §401 Water Quality Certification No. NRS 03-246, issued to Waste Management, Inc. of Tennessee for the expansion of their existing Southern Services landfill. Following the Public Hearing and the close of the comment period the division will evaluate all comments and all other relevant information it has received. After the division completes this evaluation it will either consent to or deny the proposed modification of the Declaration of Restrictions and modify, revoke, or revoke and reissue §401 Water Quality Certification No. NRS 03-246, as necessary.

On July 18, 1994 Southern Services, L.P. was issued an Aquatic Resource Alteration Permit (ARAP), No. NRS 93-704, for the placement of fill in 9.3 acres of jurisdictional wetland for the expansion of an existing demolition landfill. On

September 28, 1994 the U.S. Army Corps of Engineers (COE) issued a Nationwide Permit #26 for the same activity. To compensate for the loss of wetlands the permittee was required by both permits to create approximately 20.6 acres of wetland. On July 1, 1994 the permittee placed a Declaration of Restrictions on the 20.6 acres of wetlands created under ARAP No. NRS 93-704. The Declaration of Restrictions places various restrictions on the wetlands but provides that the restrictions may be waived, amended, modified, released or terminated at any time and from time to time by the owner of the wetlands upon the written consent of the Department. The created wetlands were monitored with annual reports received by the division. On June 17, 2003, by copy of letter from the COE, the wetland mitigation was deemed successful.

On June 25, 2003 the division received an application from Waste Management, Inc. of Tennessee for a §401 Water Quality Certification (certification). A proposed expansion of the Southern Services landfill will impact 1.25 acres of jurisdictional wetland and result in the relocation of 2,242 linear feet of an unnamed intermittent tributary to the Cumberland River. The application proposed to create 6.25 acres of wetlands onsite as compensatory wetland mitigation.

On November 12, 2003 a joint Public Notice, No. 03-66, was issued by the U.S. Army Corp of Engineers and the State of Tennessee pursuant to the application submitted under Section 404 of the Clean Water Act.

On November 6, 2003 the division completed the evaluation process on the application and on January 27, 2004 issued §401 Water Quality Certification No. NRS 03-246. On June 7, 2004 the U.S. Army Corps of Engineers issued their 404 permit, number 2003-00982. Both permits authorized the placement of fill in 1.25 acres of jurisdictional wetlands, onsite compensatory wetland mitigation of 6.25 acres and the relocation of 2,242 linear feet of the unnamed tributary.

The division proposes to modify the Declaration of Restrictions to allow the filling of 1.25 acres of the existing wetlands but would also require the creation and protection of 6.25 acres of new wetlands. The amended Declaration of Restrictions would protect a total of 25.6 acres of wetlands.

Unless the division determines after public participation and further review that additional modification or revocation is appropriate, all other conditions of the certification shall remain in place.

The hearing officer may limit the length of oral presentations in order to allow all parties the opportunity to speak, and will require that all testimony be relevant to water quality issues. Written testimony will be accepted at the hearing and will be considered part of the hearing record. Interested persons may obtain additional information, or inspect and copy related documents at the Division of Water

Pollution; Natural Resources Section; 7th Floor, L and C Annex; 401 Church Street; Nashville, TN 37243-1534.

The Tennessee Department of Environment and Conservation is committed to principles of equal opportunity, equal access and affirmative action. Contact the EEO/AA Coordinator at 1-888-867-7455 or the ADA Coordinator at 1-866-253-5827 for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).